HIAA's STATEMENT

on

MEDICARE PROVIDER SERVICE ORGANIZATIONS

Presented by

THE HONORABLE BILL GRADISON

PRESIDENT

HEALTH INSURANCE ASSOCIATION OF AMERICA

Before the

SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT

COMMITTEE ON COMMERCE

UNITED STATES HOUSE OF REPRESENTATIVES

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Mr. Chairman, I am Bill Gradison, President of the Health Insurance Association of America (HIAA). HIAA is a trade association representing more than 250 companies in the business of providing health coverage. We welcome your invitation to address your subcommittee today on provider sponsored organizations (PSOs) and the Medicare marketplace.

Although HIAA has an interest in many aspects of the current debate on Medicare reform in the Congress, today I will focus on specific proposals related to PSOs as eligible organizations in the Health Care Financing Administration (HCFA) Medicare risk contracting business.

My concerns related to these proposals are:

- Several initiatives would allow for a new category of Medicare risk contractors, e.g. "federally sponsored" PSOs, to be exempt from existing state licensing requirements, particularly in the area of solvency. This exemption is a blatant reduction in consumer protection standards for Medicare beneficiaries. Proposals allowing lower minimum enrollment levels for PSOs could also exacerbate the potential for insolvency for these entities.

- If federal solvency standards are eventually allowed to replace existing state solvency requirements, there are implications for the commercial health care market. It is possible that a PSO could move from operating in the Medicare market to the commercial HMO market as a state licensed HMO never having once satisfied the PSO's respective state solvency requirements as they currently exist.

Mr. Chairman, HIAA supports the expansion of additional choices for Medicare beneficiaries. However, the Administration and the Congress must exercise responsibility to make certain that contractors in the Medicare risk market are financially viable, and bring to their enrollees the same consumer protections standards that are in the Medicare risk program now.

PSOs and Solvency Defined

Several proposals before the Congress allow for "federally sponsored" PSOs to apply for a waiver of state licensing requirements in the area of solvency and capital adequacy, the very same state licensing requirements that are required of a Medicare risk applicant today. This waiver of state licensing requirements appears to be in the area of solvency and capital adequacy.

We need to be clear as to what constitutes solvency. Solvency is a governing principle in business; an entity or business that does not bring in enough money to

meet its obligations is considered insolvent. The most common solvency standard is "cash flow"-- the availability of premiums, or in this case the availability of the Medicare Adjusted Average Per Capita Costs (AAPCC) reimbursements, to meet financial obligations as they come due. Insolvency is defined as liabilities exceeding assets. Most businesses borrow money, develop and sell products with a profit margin to repay their creditors. Thus, insolvency is primarily a risk to creditors. Insurance risk is different.

Eligible organizations contracting with HCFA for risk contracts accept the AAPCC in exchange for providing Medicare benefits to enrollees. Federal payments are received for an enrolled population with the promise to provide a defined set of benefits. This promise creates an "insurance risk" and insolvency primarily affects the insured, which in this case in the nation's senior population. HIAA believes that insurance risk is different, the population affected is different, and that PSOs, being virtually identical to traditional HMOs, should have to meet the same regulation and solvency standards.

The Administration and the Congress cannot afford to allow PSOs in the Medicare marketplace with lower standards for solvency protections than are currently required through the state licensing process for risk bearing entities.

PSOs are Regulated Now

PSOs, whether they constitute groups of physicians or hospitals, or a combination of both, are eager to enter into the Medicare risk contracting business. These providers, involved in the ownership of these organizations, should not be exempt, or held any less accountable, in meeting state financial requirements and consumer protection standards.

In today's health care marketplace, there are PSOs operating as HMOs. They are organized under the laws of their respective states and have demonstrated to their states adequate experience in management of insurance risk. Additional PSOs that wish to be in the Medicare risk business should not be allowed an exemption from the very requirements or standards that are designed to protect consumers, in this case aged and disabled Medicare enrollees, from the risk of insolvency.

It is extremely risky to exempt Medicare contractors from adequate state solvency requirements. Moving the entire health care market over time under these "softer" solvency requirements is cause for even greater concern. HIAA reiterates its position that states are in the best position to regulate risk bearing health care entities operating at the state and local level. PSOs in the Medicare risk program, and elsewhere, should look and act like state licensed HMOs.

States should remain as the entity charged with the licensure, regulation, and oversight of organizations that are in the business of being at risk for the provisions of health care services. The state regulatory system has worked well to protect consumers. It does not need to be replaced with a separate regulatory process just for "federally sponsored" PSOs. State solvency requirements have a proven track record and are accompanied by consumer protection features in the event of insolvency.

PSOs and the Commercial Marketplace

Several initiatives call for federal solvency standards to be applied to "federally sponsored" PSOs for the period 1998 through 2001 *solely* for the Medicare risk program. By the year 2002, however, several proposals call for *all* state solvency requirements to be pre-empted by the federal solvency requirements. This means that a PSO could be exempt from its respective state solvency requirements during its initial years in the Medicare marketplace and then enter the commercial marketplace never having once satisfied the state consumer protection and solvency requirements in those states where it operates or seeks to enter.

HIAA reiterates its position that states are in the best position to regulate risk bearing health care entities operating at the state and local level. PSOs look and act like state-licensed HMOs.

State Solvency Requirements

There are many reasons why a health plan may become insolvent -- adverse risk selection, less than adequate enrollment of members, increases in anticipated utilization, inability to control costs, are a few key factors. Nearly all states require that HMOs maintain a minimum net worth as well as amounts on deposit with an appropriate state agency or independent organization to pay claims in the event of insolvency. Forty-one states require that HMO members may not be held responsible for the cost of covered services in the event of their plan's insolvency. A majority of states also require the providers in the HMO network to continue coverage for their members for a certain period of time in the event of insolvency. Therefore, if a licensed HMO becomes insolvent, state requirements offer some level of consumer protections to its members.

The Congress and the Administration should not experiment with new federal solvency requirements for inexperienced PSOs with the Medicare population. Seniors deserve the promise that the Federal government will do its best to protect them against the pending disaster of enrolling in a Medicare risk plan that does not have adequate financial protection standards.

Defining Assets is Key to Financial Stability

State solvency requirements start by establishing definitions of assets. The value of assets is a key component of solvency protection. Assets have two values--a monetary value and a business value. In an insolvency this difference is critical. In the matter of PSOs, the critical point is the difference in current monetary value and the previous business value of health care delivery assets.

PSOs that have assets in their facilities, equipment, and land do not necessarily have the ability to turn such assets into the funds necessary to pay for required health services. This is the heart of the issue. Liquidity of an asset is not determined by its owner but by its nature.

State insurance regulators have experience in addressing this dichotomy in a manner which protects the insured while promoting accessible and affordable insurance products. No similar federal experience exists.

When a senior citizen needs costly emergency care from providers out-of-town and his or her PSO has little cash on hand, where will the plan turn to ? Will it turn

to the Federal government? Senior citizens should be protected by experienced state regulators implementing solvency protections.

Minimum Medicare Enrollment Levels for Risk Contractors

IHIAA is concerned about proposals that would allow projected enrollment levels for PSO risk contractors to be 500 enrollees (down from the current requirement of 1500) in a rural area or 1500 enrollees in other areas (down from the current requirement of 5000). These changes violate the basic principle of the broad-based enrollment that is needed to sustain a viable risk program.

HIAA believes that a Medicare enrollment level of 500 in rural areas and 1500 in non-rural areas is too small a base for a viable Medicare risk program. For example, a single physician could barely survive financially with a practice panel limited to just 500 Medicare members. These levels, combined with pre-empted state solvency requirements, exacerbate the potential for financial failure.

Risk contractors need a viable enrollment base if they are to spread their risk and meet their obligations to provide, arrange, as well as pay for Medicare covered services. Caution should be exercised about changing enrollment requirements when such changes could lead to a greater chance for insolvency of a Medicare option.

Mr. Chairman, HIAA opposes establishing federal standards for PSOs applying to HCFA as Medicare risk contractors that are less stringent than those already in place on the state level.

Current HCFA requirements place the regulatory oversight of the eligible organization, whether that be an HMO or PSO, on the state level first where it appropriately belongs. At the same time current law allows HCFA to accept the entity as a contractor with the understanding that appropriate state licensing, solvency standards, and associated consumer protections have been met prior to the HCFA contracting process.

HIAA sees no reason for implementing dual state-federal standards for an interim period of time. The state licensing system, and all the consumer protection standards associated with such processes, must be preserved. It is the only way to guarantee the consumer protection standards needed for both Medicare beneficiaries and the American public at large.

If the solvency requirements for a risk contractor become minimized, who then will the seniors and the disabled turn to when their health plan fails? Is not one savings and loan crisis in America enough of a learning experience to make sure that such a situation does not happen again? And this time it could affect the health care of America's senior citizens.

Thank you, Mr. Chairman, for the opportunity to address you and Members of the Subcommittee. I am available, as always, for your questions.

HIAA

Health Insurance Association of America

Bill Gradison
President

BILL. GRADISON

Bill Gradison is President of the Heahh Insurance Association of America (HIM), the trade group representing the nation's commercial health insurance companies.

Prior to assuming his current post in February 1993, Gradison served in the House of Representatives for 18 years where, most recently, he was ranking Minority Member of the House Budget Committee and the Health Subcommittee of the House Ways and Means Committee. He also was Chairman of the House Wednesday Group, a by-invitation organization of House Republicans that was established in 1963.

Gradison served as Vice Chairman of the U.S. Bipartisan Commission on Comprehensive Heahh Care (a.k.a. the Pepper Commission). He is a member of the Board of Directors of the Life and Health Insurance Medical Research Fund, a member of the Pew Health Professions Commission, a member of the Commonwealth Fund's Commission on Women's Health, and a member of the National Academy of Social Insurance. He also serves on the Board of Governors of the National Hospice Foundation.

An investment broker, he was Chairman of the Board of the Federal Home Loan Bank of Cincinnati (1970-74). He served for 13 years on the Cincinnati City Council (1961-74), in&ding four years as Vice Mayor (1967-71). He was Mayor of Cincinnati in 1971.

Bill Gradison began his career in public service as Assistant to the Under Secretary of the Treasury (1953-55). Before returning to Cincinnati, he served as Assistant to the Secretary of Heahh, Education and Welfare (1955-57).

Born and raised in Cincinnati, he was educated in the city's public schools. He received his B.A. from Yale University (1948), his M.B.A. (with high distinction) from Harvard University (1951) and his doctorate from Harvard (1954).

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